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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,587	04/14/2000	JOHN A. DANE	EPRNT-101XX	2045

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Patent Legal Staff  
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EXAMINER
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TODD, GREGORY G

ART UNIT	PAPER NUMBER
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2157

MAIL DATE	DELIVERY MODE
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09/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/529,587

**Applicant(s)**

DANE ET AL.

**Examiner**

Gregory G. Todd

**Art Unit**

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-5, 7, 8, 10, 14-20, 23-25, 27 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-5, 7, 8, 10, 14-20, 23-25, 27 and 30-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This office action is in response to applicant's amendment filed 29 June 2007, of application filed, with the above serial number, on 14 April 2000 in which no claims have been amended. Claims 3-5, 7-8, 10-11, 14-20, 23-25, 27-28 and 30-34 are pending in the application.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-5, 7-8, 10, 14-20, and 23-25, 27-28, and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franklin et al (hereinafter "Franklin", 6,125,352) in view of Yang et al (hereinafter "Yang", 6,301,586).

As per Claims 32-34, Franklin teaches a computer method for storing and saving electronic photographic images, wherein Franklin teaches:

providing access to a server having picture memory adapted to store said electronic photographic images obtained by a photographer at an event, an ordering interface and a communication link for allowing communication over a public network (at least col. 4, lines 15-43; col. 10, lines 17-28);

said server adapted to transact remote payment information with respect to a financial institution for verifying payment of an order placed by said customers of said photographer through said ordering interface (at least col. 15, lines 12-28; col. 8, lines 39-57; commerce server with user browser); and

wherein said ordering interface is operable to be remotely accessed by said customer of said photographer over said public network using a browser for the purpose of ordering an image product with respect to said stored electronic photographic images (at least col. 15, lines 12-28; col. 8, lines 39-57; commerce server with user browser for purchasing items).

Franklin fails to explicitly teach said server providing access to said electronic photographic images stored in said picture memory by said photographer and customers of said photographer, said ordering interface further providing access to an image profiler only by said photographer and/or host of said event adapted to sequence and caption said stored electronic photographic images for display to said customers of said photographer. However, the use and advantages for using such a system is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Yang. Yang teaches a system for organizing multimedia, such as digital pictures, into an album system in an HTML format (at least Fig. 19-21; col. 14, lines 39-44.; col. 18 line 17 – col. 20 line 45). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to incorporate the teachings of Yang into Franklin's system as this would allow customers to purchase pictures arranged by the album author (photographer); Franklin, in the example used, teaches

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buying a refrigerator (at least col. 8 line 58 – col. 9 line 14), such refrigerator accompanied by a picture of the refrigerator, as well as product info and SKU, price, etc (at least col. 15, lines 13-24), and thus it is conceivable that a user, in addition to purchasing a refrigerator, could purchase a picture, said picture being accompanied by a picture of the picture (to know what you are buying), as well as product info and SKU, price, etc. Thus, as Yang teaches a user creating an album to allow others interested in the album contents (ie. Friends, family) to view pictures they are interested in within their own browser, and Franklin teaches using e-commerce to buy anything, it would have been obvious for a customer to purchase photographs online via an organized album or pictures sorted and described by the author.

As per Claims 3 and 23.

wherein said ordering interface access providing step further comprises providing access to a customer order selector adapted to enumerate and quantify a subset of said electronic photographic images to be produced as said hardcopy renditions (at least Yang Fig. 19-21; col. 14, lines 39-44,; col. 18 line 17 – col. 20 line 45).

As per Claims 4 and 24.

wherein said ordering interface access providing step further comprises providing access to a customer proofbook adapted to store a subset of said electronic photographic images, wherein said customer proofbook persists between said remote accesses by said customer (at least Yang Fig. 19-21; col. 14, lines 39-44,; col. 18 line 17 – col. 20 line 45).

As per Claims 5 and 25.

wherein said payment verifier access providing step enables transmitting payment corresponding to production of said hardcopy renditions in response to notification from said financial institution (at least Franklin col. 27 line 41 - col. 28 line 21).

As per Claims 7 and 27.

wherein said image loader access providing step enables receiving said electronic photographic images from a non-volatile digital media (at least Yang Fig. 19-21; col. 4, lines 30-54; eg, digital camera).

As per Claims 8 and 28.

wherein said non-volatile digital media is selected from the group consisting of magnetic and optical formats (at least Yang Fig. 19-21; col. 4, lines 30-59).

As per Claim 14.

wherein said displaying is in response to interactive selecting by said customer through said publicly accessible network (at least Franklin col. 8, lines 38-67).

As per Claim 15.

arranging said electronic photographic images according to an event and said displaying said electronic photographic images occurs selectively according to said event (at least Yang col. 8, lines 1-25; albums).

As per Claim 30.

further including the step of providing access to stored images for allowing image editing (at least Yang col. 20 line 1 – col. 22 line 67; col. 24, lines 30-34).

As per Claim 31.

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wherein said editing step includes one or more of the steps of categorizing, sorting and titling (at least Yang col. 20 line 1 – col. 22 line 67; col. 24, lines 30-34).

As per Claim 10.

wherein said translating comprises scanning a visual image into a digital storage format (at least Yang col. 4, lines 30-54).

As per Claim 11.

wherein said fixing comprises using a digital camera to store said visual images therein (at least Yang col. 4, lines 30-54).

As per Claims 16 and 19.

wherein said displaying is followed by the step of electing a quantitative and qualitative assertion for at least one of said electronic photographic images (at least Yang col. 14, lines 39-44,; col. 18 line 17 – col. 20 line 45).

As per Claim 17.

wherein said electing further comprises storing at least one of said electronic photographic images in an electronic proofbook (at least Yang, col. 8, lines 1-25; albums).

As per Claim 18.

wherein said electronic proofbook is accessible only by said customer (at least Yang, col. 7 line 19 – col. 8 line 25).

As per Claim 20.

wherein said storing is preceded by the step of remotely altering/editing said electronic photographic images (at least Yang, col. 24, lines 1-39).

***Response to Arguments***

4. Applicant's arguments filed 29 June 2007 have been fully considered but they are not persuasive. Applicant argues Franklin and Yang do not teach storing electronic photographic images obtained by a photographer at an event and a corresponding ordering interface. However, Franklin, in combination with Yang, teaches an online ordering interface to order a product from the product site they are ordering from (at least col. 4, lines 15-43; col. 10, lines 17-28; col. 15, lines 12-28; col. 8, lines 39-57). This is a standard interface for ordering many different types of products. Meanwhile, Yang teaches a system for organizing multimedia, such as digital pictures, into an album system in an HTML format (at least Fig. 19-21; col. 14, lines 39-44; col. 18 line 17 – col. 20 line 45), such digital picture thumbnails representing items that are available to be purchased, and it is well known that a thumbnail of a picture or photograph is a possible product that could be sold. For example, Franklin teaches buying a refrigerator (at least col. 8 line 58 – col. 9 line 14), such refrigerator accompanied by a picture of the refrigerator, as well as product info and SKU, price, etc (at least col. 15, lines 13-24), and thus it is conceivable that a user, in addition to purchasing a refrigerator, could purchase a picture, said picture being accompanied by a picture of the picture (to know what you are buying), as well as product info and SKU, price, etc. Thus, as Yang teaches a user creating an album to allow others interested in the album contents (ie. Friends, family) to view pictures they are interested in within their own browser, and Franklin teaches using e-commerce to buy anything, it would



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have been obvious for a customer to purchase photographs online via an organized album or pictures sorted and described by the author.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill at the time of the invention.

### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newly cited Yamade et al (scanned image sequencing) and Anderson, in addition to previously cited **Camrax, Epicad, Barraclough et al, Fredlund et al, and Khosla et al**, Ogawa et al, Chalstrom et al, Fredlund et al, Dellert et al, Sheridan, Shiota et al, Enomoto et al, Martin et al (payment server), Moghadam et al (networking photos), Brindle et al (photo description), Yien et al (networked image editing), Loeb (multimedia, photo delivery mechanisms), Woods (Kodak abstract for system claimed dated August '97), DaleLabs (digital film developing), Oldroyd Digital (digital film printing and editing), and WebPhotos (a very similar system to that claimed) are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G. Todd whose telephone number is (571)272-4011. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd



Patent Examiner

Technology Center 2100



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